

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

BRYAN BOSSERT,

3:11-cv-03044-AC

Plaintiff,

ORDER

V.

MAX WILLIAMS, MICHAEL F.  
GOWER, JANA RUSSELL, and  
RICHARD HARRIS,

Defendants.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#169) on June 3, 2013, in which he recommends that this Court grant Defendants' Motion (#150) for Judgment on the Pleadings, which he construed as a Motion for Summary Judgment, and that Defendants' alternative Motion (#149) for Summary Judgment should be denied as moot. Plaintiff filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*).

In his Objections Plaintiff reiterates the arguments contained in his Response (#157) to Defendants' Motion for Judgment on the Pleadings, which this Court also construes as a Motion for Summary Judgment. Together with his Objections, Plaintiff submits a document purporting to confirm an appointment for mental-health counseling. Objections (#173) at 4. Plaintiff apparently intends this document to be construed as evidence of his mental-health impairment. The document, however, is irrelevant because, as Plaintiff acknowledges, Defendants do not dispute the existence of Plaintiff's mental-health issues. See Pl.'s Resp. to Mot. for J. on the Pleadings (#157) at 2.

Having reviewed the record, Plaintiff's Objections, and Defendants' Response to the Objections, the Court does not find any error in the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#169). Accordingly, the Court **GRANTS** Defendants' Motion (#150) for Judgment on the Pleadings (construed as a Motion for Summary Judgment) and **DENIES as moot** Defendants' alternative Motion (#149) for Summary Judgment.

IT IS SO ORDERED.

DATED this 9th day of August, 2013.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge